

REMARKS

As a preliminary matter, please note that on January 29, 2004, a Revocation and Appointment of Power of Attorney was submitted to the U.S. Patent and Trademark Office in this matter revoking all prior powers of attorney and appointing as principal attorneys in this matter, the attorneys of Barnes and Thornburg. Accompanying the Revocation and Appointment of Power of Attorney were three other papers, namely, (1) Request for Change of Customer Number, (2) Notification of Loss of Entitlement to Small Entity Status, and (3) Request for Change of Attorney Docket Number. Copies of those papers, three of which were printed out from the Public PAIR database for the above-captioned matter (see the "Power of Attorney" under the "Mail Room Date" of February 2, 2004) are submitted herewith along with a copy of the Request for Change of Customer Number (which does not appear to have been scanned in the February 2, 2004 Public PAIR database entry even though it was submitted concurrently with the three documents that were scanned), and a copy of the post card receipt showing that the U.S. Patent and Trademark Office received, on February 2, 2004, all four of the submitted papers.

Although the U.S. Patent and Trademark Office changed its records to reflect the proper Barnes and Thornburg attorney docket number, it has never mailed a paper accepting or denying the Revocation and Appointment of Power of Attorney in this matter and such a paper is hereby respectfully requested. In addition, it is respectfully requested that the records of the U.S. Patent and Trademark Office be appropriately changed to, among other things, reflect the proper correspondence address for this matter as set forth in the Revocation and Appointment of Power of Attorney. The Revocation and Appointment of Power of Attorney was executed on January 6, 2004 by Patrick de Maynadier, Secretary, of Advanced Respiratory, Inc. The inventor, Donald J. Gagne, executed an assignment on October 2, 2003 to assign his rights in the invention to Advanced Respiratory, Inc. (the inventor also signed the Declaration on October 2, 2003). That Assignment was recorded in the records of the U.S. Patent and Trademark Office beginning at Reel/Frame 014868/0577 on January 12, 2004. Thus, there is no reason that the U.S. Patent and Trademark Office should not accept the Revocation and Appointment of Power of Attorney which was mailed on January 29, 2004, which was received by the U.S. Patent and Trademark Office on February 2, 2004, and which appears in the Public PAIR database.

Claims 1-42 were pending in the application prior to this amendment. By this amendment, claims 1, 7, 18, 21, 26, 27, 33, 35, 36, 39, and 40 have been amended, claim 38 has been canceled, and new claim 43 has been added. Thus, after this amendment, claims 1-37 and 39-43 are pending in the application.

Although the Office Action Summary sheet of the September 26, 2006 Office Action indicated that all pending claims (i.e., claims 1-42) were rejected, page 6 of the Office Action indicated that claims 26, 33, and 40 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Independent claims 21, 27, and 39 have been amended to include the limitations of objected to claims 26, 33, and 40, respectively. In addition, due to the incorporation of the recitations of dependent claims 26, 33, and 40 into their associated independent claims, these dependent claims have each been amended to claim other features. Accordingly, claims 21-34 and 39-42 are in condition for allowance and such action is respectfully requested.

The examiner rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by each of U.S. Pat. No. 5,567,916 to Napiorkowski et al.; U.S. Pat. No. 1,952,695 to Webb et al., along with also rejecting dependent claims 2-6; and U.S. Pat. No. 5,743,884 to Hasson et al, along with also rejecting dependent claims 2-6. Claim 1 recites, among other things "[a] connector for connection between an inflatable bladder and a hose, the connector comprising: an elastic sheet . . . ; and a first slot within the sheet dimensioned to form an airtight seal around an outer surface of the hose, the elastic sheet having a generally flat configuration along a plane prior to insertion of the hose through the slot, and the elastic sheet being deformable to allow the hose to be inserted through the slot in a direction generally parallel to the plane defined by the sheet in the flat configuration." There is no teaching or suggestion in Napiorkowski that any hoses extend through any slots in the disclosed grommets 2, 40, 60, 70, 80 "in a direction generally parallel to the plane defined by the sheet in the flat configuration" as recited in claim 1. In fact, there is no depiction in Napiorkowski of any hoses or anything else for that matter passing through the disclosed grommets 2, 40, 60, 70, 80.

The statements in Napiorkowski regarding insertion of anything through the disclosed grommets, as well as the grommets of the prior art, are general in nature and, if anything, suggest that the wires passing through the grommets are generally perpendicular to the portion of the grommet that Napiorkowski refers to as the "membrane." See, for example, the circles 14, 16 of Napiorkowski's grommet 2 which suggest that a wire or cable having a circular cross section would be held therein in an orientation generally perpendicular to surface 10 of membrane 6. As to Napiorkowski's Fig. 12-13 embodiment upon which the examiner relies, in large part, in making the rejection of claim 1, the suggestion is that the wires passing through the grommet will be generally perpendicular to the grommet as evidenced by the following statement at col. 5, lines 26-29 of Napiorkowski: "[t]he embodiment of FIGS. 12 and 13 is particularly useful in applications in which it is desirable to drop wires into the grommet as opposed to inserting them through the grommet." Thus, not only does Napiorkowski seem to suggest that the wires will extend through the grommet 80 of Figs. 12-13 in a perpendicular manner, but Napiorkowski actually teaches away from inserting wires through the grommet 80 by emphasizing that the grommet 80 is configured to have wires "drop" into it.

Unlike Napiorkowski, which is simply silent as to the precise orientation of the wires passing through the disclosed grommets (although the suggestion is that they are generally perpendicular to the grommets), both Webb and Hasson explicitly teach that the elements (e.g., "articles 5, such as conduits, tubes, and conductors" disclosed at col. 1, lines 29 and 30 of Webb and Hasson's trocar 24 of Fig. 1, instrument 180 of Figs. 8, 11, 12, 15, 18, 20, 22, and cylindrical body 425 of Fig. 25) which pass through the structures the Examiner contends are sheets (e.g. block 1 of Webb and sealing members 272 of Hasson), are generally perpendicular to the elements through which they pass. Napiorkowski, Webb, and Hasson, either alone or in combination, therefore, do not teach all of the limitations recited in independent claim 1. Accordingly, independent claim 1, along with claims 2-6 which depend either directly or indirectly from claim 1, are in condition for allowance and such action is respectfully requested.

The examiner rejected claim 38 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,676,614 to Hansen et al. Claim 38 has been canceled, thereby rendering moot this rejection.

The examiner rejected claims 2-20 under 35 U.S.C. § 103(a) as being unpatentable over Napiorkowski in view of Hasson. Claims 2-6 are dependent upon claim 1 which is in condition for allowance as discussed above. Independent claim 7 recites, among other things, "the thermoplastic elastomer sheet having a generally flat configuration along a plane prior to insertion of the hose through the slot, and the thermoplastic elastomer sheet being deformable to allow the hose to be inserted through the slot in a direction generally parallel to the plane defined by the thermoplastic elastomer sheet in the flat configuration." This language is substantially similar to corresponding language of claim 1, except that claim 7 refers to "a thermoplastic elastomer sheet," whereas claim 1 more broadly refers to just "a sheet." Thus, the discussion above regarding how claim 1 patentably distinguishes over Napiorkowski and Hasson, either alone in combination, is equally applicable to independent claim 7. Accordingly, independent claim 7, along with claims 8-17 which depend either directly or indirectly from claim 7, are in condition for allowance and such action is respectfully requested.

Independent claim 18 recites, among other things, "the elastic sheet having a generally flat configuration along a plane prior to insertion of the hose through the slot, and the elastic sheet being deformable to allow the hose to be inserted through the slot in a direction generally parallel to the plane defined by the sheet in the flat configuration." This language is identical to corresponding language of claim 1. Thus, the discussion above regarding how claim 1 patentably distinguishes over Napiorkowski and Hasson, either alone in combination, is equally applicable to independent claim 18. Accordingly, independent claim 18, along with claims 18 and 20 which depend either directly or indirectly from claim 18, are in condition for allowance and such action is respectfully requested.

The examiner rejected claims 21-25, 35, 36, 37, 39, 41, and 42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,676,614 to Hansen et al. in view of Napiorkowski. As discussed above, independent claim 21 and its associated dependent claims,

among which claims 22-25 are included, are in condition for allowance due to incorporation of allowable subject matter from claim 26 into claim 21, thereby rendering this rejection of claims 21-25 moot. Similarly, as discussed above, independent claim 39 and its associated dependent claims, among which claims 41 and 42 are included, are in condition for allowance due to incorporation of allowable subject matter from claim 40 into claim 39, thereby rendering this rejection of claims 39, 41, and 42 moot.

Claim 35 recites, among other things, "the elastic sheet having a generally flat configuration along a plane prior to insertion of the hose through the slot, and the elastic sheet being deformable to allow the hose to be inserted through the slot in a direction generally parallel to the plane defined by the sheet in the flat configuration." This language is identical to corresponding language of independent claim 1. Thus, the discussion above regarding how claim 1 patentably distinguishes over Napiorkowski is equally applicable to independent claim 35. Hansen et al. was not proffered for teaching the details of the "connector," nor does it cure the deficiency of Napiorkowski with regard to the claim 35 language reproduced above in this paragraph. Accordingly, independent claim 35 is in condition for allowance and such action is respectfully requested.

Claim 36 recites, among other things, "the thermoplastic elastomer sheet having a generally flat configuration along a plane prior to insertion of the hose through the slot, and the thermoplastic elastomer sheet being deformable to allow the hose to be inserted through the slot in a direction generally parallel to the plane defined by the thermoplastic elastomer sheet in the flat configuration." This language is identical to corresponding language of claim 7. Thus, the discussion above regarding how claim 7 patentably distinguishes over Napiorkowski is equally applicable to independent claim 36. Hansen et al. was not proffered for teaching the details of the "connector," nor does it cure the deficiency of Napiorkowski with regard to the claim 36 language reproduced above in this paragraph. Accordingly, independent claim 36, along with claim 37 which depends from claim 36, are in condition for allowance and such action is respectfully requested.

The examiner rejected claims 27-32 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Hansen in view of Napiorkowski and further in view of Hasson et al. As discussed above, independent claim 27 and its associated dependent claims, among which claims 28-32 and 34 are included, are in condition for allowance due to incorporation of allowable subject matter from claim 33 into claim 27, thereby rendering this rejection of claims 27-32 and 34 moot.

New claim 42 is added herein and recites a combination of elements that distinguish over the prior art of record. Accordingly, allowance of claim 42 is respectfully requested.

If there are any questions or comments that would speed prosecution of this patent application, the examiner is invited to call the undersigned at (317) 231-7341. It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and that shortages in fees, if any, be charged, or any overpayment in fees credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 with reference to file 7175-74151.

Respectfully submitted,
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